

AMENDED IN ASSEMBLY MAY 6, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 791**

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**Introduced by Assembly Member Swanson**

February 26, 2009

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An act to add Section 41329.60 to the Education Code, relating to the Oakland Unified School District.

### LEGISLATIVE COUNSEL'S DIGEST

AB 791, as amended, Swanson. ~~The Oakland Unified School District:~~ governance.

(1) Existing law requires the Superintendent of Public Instruction to assume all the rights, duties, and powers of the governing board of the Oakland Unified School District and to appoint an administrator to act on behalf of the Superintendent in exercising the authority of the Superintendent over the school district. The authority of the Superintendent and the administrator over the school district is required to continue until certain enumerated conditions are met, including the completion of an improvement plan for the district. Existing law requires the County Office Fiscal Crisis and Management Assistance Team (FCMAT) to prepare the improvement plan for the school district, as provided, by July 1, 2003, and requires the FCMAT to report on the implementation of the plan, as specified.

This bill would require the Superintendent to return the authority for each operational area *for which the most recent annual progress report prepared and submitted by FCMAT recommends the authority be returned* to the governing board by ~~January 4, 2010, according to the~~

~~recommendation of the most recent FCMAT progress report July 1 of each year. The bill would provide that, if FCMAT recommends in its most recent progress report that authority over any operational area or areas be within the authority of the state administrator, the Superintendent would be authorized, in his or her sole discretion, to require that authority for the operational area or areas be returned to, or retained by, the state administrator.~~

(2) Existing law requires the governing board of the Oakland Unified School District to serve without compensation as an advisory body during the period that the Superintendent is exercising authority over the district.

This bill would entitle the members of the governing board to receive full compensation for services, once authority for one or more operational areas is returned to the governing board, that they would have received prior to the transfer of authority to operate the district to the Superintendent.

(3) This bill would declare that due to the unique circumstances regarding governance of the school district, a general statute cannot be made applicable.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Providing a quality education that meets the unique needs  
4 of Oakland public school pupils is a fundamental goal that should  
5 not be jeopardized. On December 5, 2008, the County Office Fiscal  
6 Crisis and Management Assistance Team (FCMAT) recommended,  
7 in its sixth progress report on the assessment and recovery plan of  
8 the Oakland Unified School District, that the operational areas of  
9 pupil achievement and financial management be returned to the  
10 district.

11 (b) The Oakland Unified School District has been in state  
12 receivership since 2003. During that time new members,  
13 constituting a majority of the board, were elected to the governing  
14 board of the district.

1 (c) State receivership is intended to be a process for recovery,  
2 and FCMAT's comprehensive review has demonstrated tangible  
3 progress by the Oakland Unified School District.

4 (d) The Oakland Unified School District has made notable  
5 academic improvements over the last few years, demonstrated by  
6 test score improvements, an increased number of fully credentialed  
7 teachers in Oakland classrooms, and increased parental and  
8 community involvement. In 2006, the Oakland Unified School  
9 District made the largest improvement in Academic Performance  
10 Index (API) test scores among the 33 largest unified school districts  
11 in California.

12 (e) The governing board and the community of the Oakland  
13 Unified School District have the will to continue the key  
14 educational reforms that have benefited Oakland public school  
15 pupils in the last three years and to support difficult decisions in  
16 order to immediately eliminate all further overspending by the  
17 district.

18 (f) The governing board of the Oakland Unified School District  
19 has voluntarily undergone training in the responsibilities and proper  
20 conduct of a school district governing board. The training began  
21 in January 2007 and was completed in June 2007.

22 (g) In its Sixth Progress Report on the Assessment and Recovery  
23 Plan of the Oakland Unified School District, FCMAT stated as  
24 follows:

25 "In collaboration with the California Department of Education,  
26 FCMAT established the following criteria to measure the district's  
27 progress. When the average score of the subset of standards in an  
28 operational area reaches a level of six and it is considered to be  
29 substantial and sustainable, and no individual standard in the subset  
30 is below a four, FCMAT will recommend to the Superintendent  
31 of Public Instruction (SPI) that this particular condition of SB 39  
32 has been met and that this operational area could be returned to  
33 the Governing Board."

34 SEC. 2. It is the intent of the Legislature that the state  
35 administrator appointed pursuant to subdivision (b) of Section 4  
36 of Chapter 14 of the Statutes of 2003 and the governing board of  
37 the Oakland Unified School District begin the process of a  
38 structured and orderly return of authority over the operational areas  
39 of pupil achievement and ~~fiscal control~~ *financial management*  
40 from the Superintendent of Public Instruction back to the governing

board of the Oakland Unified School District, pursuant to annual County Office Fiscal Crisis and Management Assistance Team progress reports and recommendations on any operational areas that should be returned to the control of the governing board.

SEC. 3. Section 41329.60 is added to the Education Code, to read:

41329.60. (a) For purposes of this section, “operational areas” means the operational areas of community relations and governance, pupil achievement, personnel management, facilities management, and ~~fiscal control~~ *financial management*.

(b) Notwithstanding any provision of Chapter 14 of the Statutes of 2003, the Superintendent shall return authority for each operational area for which the most recent annual progress report prepared and submitted by ~~FCMAT~~ *the County Office Fiscal Crisis and Management Assistance Team (FCMAT)* recommends the authority be returned to the governing board ~~by January 4, 2010~~ *on July 1 of each year*.

(c) *In preparing any progress report of the Oakland Unified School District for the purposes of evaluating the district’s progress toward repayment of the emergency loan granted pursuant to Chapter 14 of the Statutes of 2003, FCMAT shall use the same standards, scoring methodology, and evaluative threshold that it used in preparing its Sixth Progress Report on the Assessment and Recovery Plan of the Oakland Unified School District.*

(d) *Notwithstanding any provision of Chapter 14 of the Statutes of 2003, if FCMAT recommends in its most recent progress report that authority over any one or more operational areas be within the authority of the state administrator, the Superintendent may, in his or her sole discretion, require that authority over the operational area or areas be returned to, or retained by, the state administrator. The return of any authority to the state administrator shall occur by July 1 of the year following the year in which the report is submitted.*

~~(e)~~

(e) Notwithstanding any provision of Chapter 14 of the Statutes of 2003, the members of the governing board shall be entitled to receive the full compensation for services, once authority for one or more operational areas is returned to the governing board pursuant to this section, that they would have received prior to the

1 Superintendent originally assuming authority for all of the  
2 operational areas.

3 SEC. 4. The Legislature finds and declares that due to the  
4 unique circumstances regarding governance of the Oakland Unified  
5 School District, a general statute cannot be made applicable within  
6 the meaning of Section 16 of Article IV of the California  
7 Constitution.

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